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ART UNIT	PAPER NUMBER
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

ED

	Application No.	Applicant(s)
Office Action Summary	10/662,736	BOZEMAN, ALAN KYLE
	Examiner	Art Unit	
	M. A. Sager	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ . Responsive to communication(s) filed on <u>30 October 2006 . and 24 November 2006</u>.

2a)☐ This action is FINAL.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>29-53</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>29-38, 40-47, 49-53</u> is/are rejected.

7)☒ Claim(s) <u>39 and 48</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

Drawings

1.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "300", "304" and "320" have each been used to designate 'title' (paragraphs 45, 63, 68); while, reference characters "302" and "380" have both been used to designate 'lottery ticket' (paragraphs 43-46, 67). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2.   The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "300" has been used to designate each 'lottery play slip', 'title' and 'lottery slip' (paragraph 43-46, 63); while, reference character "302" has been used to designate each 'ticket', 'lottery ticket' and 'lottery play ticket' (paragraph 43-46, 68); while, reference character "372" has been used to designate each 'phase[s]', 'word or play phrase', 'play phrase', 'pre-printed play phrase' and 'predefined play phrases' (paragraphs 63-72, 74, 81, 86, 88); while, reference character "370" has been used to designate each 'play slip', 'word based play slip' and 'word based lottery play slip' (paragraph 63-64, 68-69, 84, 90); while, reference character "380" has been used to designate each 'lottery ticket', 'word lottery ticket' and 'word based lottery ticket' (paragraph 67-68). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are

required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior

version of the sheet, even if only one figure is being amended. Each drawing sheet submitted

after the filing date of an application must be labeled in the top margin as either "Replacement

Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the

next Office action. The objection to the drawings will not be held in abeyance.

Specification

3.   The disclosure is objected to because of the following informalities: 'my' rather than --

may-- (paragraph 63, line 10) and '-won'' rather than --"won"-- (paragraph 72, line 8).

Appropriate correction is required.

4.   The substitute specification filed Oct 30, 2006 has been entered.

Claim Objections

5.   Claim 36 is objected to because of the following informalities: the alphabetical play

phrase is inherently same as alphabetical play phase and thus claim as a whole fails to further

limit apparatus of claim 35. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. Claim language as amended fails to provide metes and bounds of invention in so far as phrase being same as phrase is inherent, thus it is unclear what feature further limits.

8.   Claims 51-53 are recites the limitation "the pre-printed play phrase" in lines 1-2 (claim 51), in line 2 (claim 52) and in lines 2-3 (claim 53). There is insufficient antecedent basis for this limitation in the claim.

9.   Claim 51 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The phrase 'pre-printed play phrase comprised of a plurality of words' (lines 1-2) fails to further limit pre-printed word-based play phrase comprised of a plurality of words (claim 50).

Claim Interpretation

10.   With respect to claim interpretation for clarification of record, the language 'alphabetical play phrase' (or similar terminology) includes any coherent text or any text or a word or includes an alphanumeric sequence as per Applicants specification (abstract, paragraphs 44, 57, 62-63, 78, 85) that although includes listing as Applicant asserts in remarks rec'd Mar 17, 2006 that the play phrase is quotes, film titles, fortune cookies or even simple list of words fitting a theme as cited from specification (paragraph 81), the language is broader and includes any text at least since that although Applicant may be their own lexicographer, in this instance, Applicant did not provide a clear definition (paragraph 31) and the examples cited in the listing (para 81) are merely examples. In consideration of intrinsic evidence, the specification permits letters, alphanumeric, numbers, symbols as characters or indicia and that a player may enter a word or

any coherent text can form the play phrase or can be any text at least since specification states a

player may write the desired word and states any coherent text (abstract, paragraphs 62-63, 78).

Further. in consideration of extrinsic evidence, phrase is defined within Webster's II New

Riverside University Dictionary, copyright 1994, to be (1) a sequence of words regarded as a

meaningful unit or, (2) a concise or familiar expression: CATCH PHRASE or, (3) a word or

group of words read or spoken as a unit and separated by pauses or other junctures or, (4) two or

more words in sequence comprising syntactic unit or groups of syntactic units, less completely

predicated than a sentence. In consideration of specification as a whole (by itself or, in

conjunction with extrinsic evidence), the broadest reasonable interpretation of the claimed

invention including 'alphabetic play phrase' (or similar language) is any coherent text that may

include a word, and a series of letters or numbers or alphanumeric is coherent text. Also, a

single word is any text and a word can form a phrase or sentence such as but not limited to GO,

NO, STOP, HALT, or further text includes CLOUD 9 or B5 or I12, as broadly claimed. Further,

although Applicant asserts play phrase requires a plurality of words, presently only claims 38-39,

42-53 are so limited and Applicant has provided no evidence that shows a plurality of words is

required for the remaining claims. It is acknowledged by office that specification includes forms

of lottery game with a plurality of words; however, breadth of claimed invention does not

presently require a plurality of words in all claims (claims 38-39, 42-53 require a plurality of

words). Further, alphabetic of alphabetic play phrase is deemed to limit invention to require

letters; while, word-based play phrase is deemed to require word(s), however, although

alphabetic play phrase requires letters, it is not limited to word(s). Further, text such as B5, I18,

N38, G50, and O72 is an alphabetic play phrase as an alphanumeric sequence from a lotto game

deemed inclusive within breadth of claimed invention.   Also claimed invention including 'play

phrase comprising a plurality of words', the breadth of claim language includes a plurality of

words that may include words associated or relate to a topic or theme similar to word find or

search puzzles that include a plurality of words related to a topic or theme.

Claim Rejections - 35 USC § 102/103

11.   Claims 29-30 and 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by

Koza or, in the alternative, under 35 U.S.C. 103(a) as obvious over Koza in view of either

Goldman (4157829) or Luciano (6168521). While features of an apparatus may be recited either

structurally or functionally, claims directed to an apparatus must be distinguished from the prior

art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44

USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference

relating to function did not defeat the Board's finding of anticipation of claimed apparatus

because the limitations at issue were found to be inherent in the prior art reference); see also In re

Swinehart, 439 F.2d 210, 212-13. 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d

844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not

what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15

USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). In this case, where alphabetical

play phrase includes any text or a word or includes letters or alphanumeric sequence (sic), Koza

discloses a apparatus and method for playing a lottery game (2:51-3:20, 3:64-4:4, 4:13-5:28, 6:9-

12, 6:21-39, 11:28-68, 12:36-13:30) teaching claimed features or steps, as broadly claimed,

where the alphabetic play phrase is word selected from a list such as a menu or is sequence that

includes letters (3:68-4:2, 12:35-13:2), a game input unit device for receiving a random

alphabetic play phrase from user such as keyboard or play slip (3:10-20, 3:50-52, 6:9-29, 11:36-38, 11:60-68, 12:46-63, ref 72), a wager input device such as coin slot (11:40), a controller operatively coupled to game input and wager input (11:28-13:2, fig. 1-6, or inherent, per MPEP 2131.01, see either Goldman 3:61-5:40, ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130), the controller generating a random character string and assigning a prize value to the alphabetical play phrase (3:10-20, 5:26-28, 5:31-32, 49-51, 7:25-66, 8:4-11 or inherent. per MPEP 2131.01, see either Goldman 3:61-5:40, ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130), and the controller determining a payout value based upon the correlation among the character string. the play phrase, the prize value and the wager (3:10-20, 4:51-54, 5:24-28, 6:32-39, 7:25-66, 8:4-11, 11:28-13:2 or inherent, per MPEP 2131.01, see either Goldman 3:61-5:40. ref 12; or Luciano, 2:66-3:9, 5:66-6:3, 7:20-9:15, ref 130). Further, regarding determining a payout value, Koza provides a payout value based upon a correlation among the character string, the alphabetical play phrase, the prize value and the wager as a matching of letter grouping (sic). It is noted that Applicants' instant specification includes determining a payout value based upon matching letter group or grouping (paragraph 69 and 77) that is one form of determining a payout encompassed by clam language in a similar manner taught by Koza, thus claimed functional recitation in apparatus fails to preclude Koza. Further, regarding controller, although Koza may not explicitly state inclusion of controller, however, the office maintains Koza infers a controller since Koza does state the information [winning indicia] provided to transmitter is computer controlled (5:50-51), a recording of such selection at a central repository which is a central computer storing player selections that would include a processor for receipt of transmitted player selections (11:28-31) and Koza states drawing of random numbers is every

hour on all 365 days a year (7:30-34). It is maintained that the repetitive hourly drawings infer

being done automatically by a computer that is economically speaking best suited to such task

where a lotto gaming authority is very keen on bottom line profit and where excessive labor cost

would not be tolerated. To conduct the 8760 (8784 during leap years) drawings manually or at

least without a controller (to automate) year after year as suggested by Applicant would seem to

incur labor cost that an automated system would not incur. Inherency is maintained as stated

above. Applicant's lack of reading Koza as a whole is neither well taken nor persuasive.

However, alternatively, where Koza conducts 8760 (8784 during leap year) drawings

without a controller [or logic circuit or other processor], the excessive labor cost involved with a

manual or semi manual drawing operation would not be incurred by a system or process that

includes a controller [or logic circuit or other processor] that is operatively coupled to game

input unit and the wager input device, being capable of generating a random character string and

assigning a prize value to the alphabetical play phrase, also determining a payout value upon the

correlation among the character string, the play phrase, the prize value and the wager. Such

automated systems are notoriously well known in the art such as demonstrated by either

Goldman or Luciano. Goldman discloses a lottery game apparatus teaching a game input unit for

receiving a random indicia from a user such as manually input by the user that includes numbers

or other indicia (3:38-47), a wager input device (3:47-49, 52-56), a controller operatively

coupled to game input unit and wager input device, the controller capable of generating a random

character string and assigning a prize value to indicia, the controller also determining a payout

value based on correlation among character string, indicia, prize value and wager (3:57-4:9,

4:26-5:50, 6:43-7:23, 7:48-8:32); while, Luciano discloses a lottery game apparatus teaching a

game input unit for receiving a random indicia from a user such as manually input by the user

(2:38-42, ref. 102), a wager input device (ref. 104), a controller operatively coupled to game

input unit and wager input device, the controller capable of generating a random character string

and assigning a prize value to indicia, the controller also determining a payout value based on

correlation among character string, indicia, prize value and wager (2:66-3:9). Thus, it would

have been obvious to an artisan at a time prior to the invention to add a controller operatively

coupled to game input unit and the wager input device, being capable of generating a random

character string and assigning a prize value to the alphabetical play phrase, also determining a

payout value upon the correlation among the character string, the play phrase, the prize value and

the wager as suggested/taught by either Goldman or Luciano to Koza to automate generation of

winning indicia and determination of winning status without incurring undue labor expense

thereby increasing profitability of game.

12.   Claims 50-53 are rejected under 35 U.S.C. 102(b) as anticipated by Guttin (6241246) or,

in the alternative, under 35 U.S.C. 103(a) as obvious over Guttin (6241246) in view of either

Baerlocher (5788573) or Chan (6602133) or Walker (5921864). Response to Applicant's

remarks is provided below and incorporated herein. While features of an apparatus may be

recited either structurally or functionally, claims directed to an apparatus must be distinguished

from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-

78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art

reference relating to function did not defeat the Board's finding of anticipation of claimed

apparatus because the limitations at issue were found to be inherent in the prior art reference);

see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re

Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a

device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464,

1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). In this case, claimed

alphabetic play phrase is any text such as a word or including a plurality of words (supra) fails to

preclude Guttin since Guttin discloses a lottery ticket (2:43-61, figs. 1-5, refs. 4, 6, 8) having a

section listing a alphabetic play phrase as any text comprised of a plurality of words (ref 4) and a

random character string having a cover being selectively removable to reveal random character

string (ref 6), whereby a prize is associated with each word (ref. 8), wherein the random

character string selectively matches a word in the pre-printed play phrase whereby upon such

matching a prize associated with the word is won (ref 8), or wherein the random character string

selectively containing all characters of a word in the pre-printed play phrase whereby a prize

associated with the word is won (ref. 4, 6, 8), as broadly claimed. It is also noted that word

puzzles generally relate to a theme or topic where the plurality of words in the word puzzle relate

to or are associated with the theme or topic so as to focus player in their search to words with

common topic or theme such as exemplified in newspaper (note discussion in Guttin background

discusses news puzzles) or the publication Highlights word search/find puzzles. Alternatively,

Guttin includes a phrase as any text such as a word including a plurality of words (sic); however,

where play phrase comprised of a plurality of words includes each of the words of the plurality

of words to relate to same topic or theme (not currently limiting as being required), it is not clear

whether Guttin plurality of words relate or are associated with a topic or theme. Word games

with a plurality of words related to a topic or theme are well known such as themed word

[find/search] puzzles as discussed in Guttin (background discussion of newspaper puzzles) or

Chan (figs. 4-6) or, alternatively as a phrase having a plurality of words as taught/demonstrated

in Wheel of Fortune phrase game as discussed by Baerlocher (1:21-27, 4:4) or Walker (abstract,

4:18-19, 23-35). Thus, it would have been obvious to an artisan at a time prior to the invention

to add play phrase comprised of a plurality of words where each of the words are associated or

related to topic or theme [not currently so limited] as suggested by Baerlocher or Chan or Walker

to Guttin so as to increase interest from players for particular topic or theme.

13.   Claims 29-30 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over

either Goldman (4157829) or Luciano (6168521) each in view of Koza (5112050). While

features of an apparatus may be recited either structurally or functionally, claims directed to an

apparatus must be distinguished from the prior art in terms of structure rather than function. In re

Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of

a disclosure in a prior art reference relating to function did not defeat the Board's finding of

anticipation of claimed apparatus because the limitations at issue were found to be inherent in the

prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29

(CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus

claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb

Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

Discussion above regarding breadth of claim language is incorporated herein. As best

understood, where alphabetic play phrase fails to preclude a player selected word or letter or

alphanumeric sequence (supra), Goldman discloses a lottery game apparatus teaching a game

input unit for receiving a random indicia from a user such as manually input by the user that

includes numbers or other indicia (3:38-47), a wager input device (3:47-49, 52-56), a controller

operatively coupled to game input unit and wager input device, the controller capable of

generating a random character string and assigning a prize value to indicia, the controller also

determining a payout value based on correlation among character string, indicia, prize value and

wager (3:57-4:9, 4:26-5:50, 6:43-7:23, 7:48-8:32); while, Luciano discloses a lottery game

apparatus teaching a game input unit for receiving a random indicia from a user such as manually

input by the user (2:38-42, ref. 102), a wager input device (ref. 104), a controller operatively

coupled to game input unit and wager input device, the controller capable of generating a random

character string and assigning a prize value to indicia, the controller also determining a payout

value based on correlation among character string, indicia, prize value and wager (2:66-3:9).

Goldman and Luciano each lack alphabetic play phrase, a word based lottery play slip and a

menu of phrases, as particularly claimed. Essentially, the particular indicia received from user or

randomly selected by controller fail to patentably distinguish in this instance. Where alphabetic

play phrase is any coherent text including a word or letters or alphanumeric (supra), Koza

discloses an apparatus for playing a lottery game (2:51-3:20, 3:64-4:4, 4:13-5:28, 6:9-12, 6:21-

39, 11:28-68, 12:36-13:35) teaching the particular indicia input by a player or randomly selected

by a controller includes where the alphabetic play phrase is selected from a list comprising a

game input unit (3:10-20, 6:9-29. 11:36-38, 11:60-68, 12:46-63), is received through a play slip

(11:64-68, 12:35-13:2), or a menu (12:60-63) so as to permit selection indicia and winning

indicia include words of a given language (12:50-51) and to permit use of play slips for those

systems that require intervention of a sales agent. It is noteworthy that Applicant states in part

most lottery stations are manned by a retail agent in amendment filed Oct 30, 2006 in remarks on

middle of page 21 therein. Thus, it would have been obvious to an artisan at a time prior to the

invention to add alphabetic play phrase, word based lottery play slip and a menu of phrases as a

listing of words as taught by Koza to either Goldman or Luciano so as to permit selection indicia

and winning indicia include words of a given language and to permit use of play slips for those

lottery systems that require intervention of a sales agent.

14.   Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koza or,

alternatively over Koza in view of either Goldman (4157829) or Luciano (6168521), as applied

to claim 30 above, and further in view of Casa (5613679). Discussion above regarding breadth

of claim language is incorporated herein. As best understood, where alphabetic play phrase fails

to preclude a player selected word or letter or alphanumeric sequence (supra), Koza or Koza in

view of either Goldman or Luciano discloses apparatus for lottery game comprising all features

(sic) including a lottery play slip (11:64-68, 12:46-13:2, 13:26-35) and a selection section

allowing alphabetical play phrase to be coded (12:46-13:2 and 26-35) except a first section

containing the alphabetical play phrase. Koza relies upon conventional play slip format for

reading input (11:64-68, 12:46-13:2, 26-35) and as such does not further disclose details of a

conventional lottery play slip, thus any conventional play slip may be used. Also, Goldman or

Luciano each discloses use of lottery play slip or at least permits other lottery schemes and

techniques but lacks detailing format of play slip to include a first section and a selection section.

Casa discloses a method of playing a lottery game teaching a conventional play slip having a

selection section to allow the string to be coded by player. Regarding the first section, it is

notoriously well known (by OFFICIAL NOTICE) in testing art to permit user input via hand

written input in conjunction with a selection section to be user coded of the written input where

the hand written input allows quick visual verification of hand written input to ensure intended

player/user response of player coded input while the coding allows machine reading. Thus, it

would have been obvious to an artisan at a time prior to the invention to add a first section

containing the play phrase, as notoriously well known and a selection section as conventional or

as taught by Casa to Koza or, alternatively, to Koza in view of either Goldman or Luciano to

utilize known play slip format thereby saving development costs and for ease of play by players

due to familiarity of game format and to permit quick visual verification of coded input.

15.   Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman

(4157829) or Luciano (6168521) each in view of Koza as applied to claim 30 above, and further

in view of Casa (5613679). Discussion above regarding breadth of claim language is

incorporated herein. As best understood, where alphabetic play phrase fails to preclude a player

selected word or letter or alphanumeric sequence (supra), Goldman or Luciano each in view of

Koza discloses apparatus for lottery game comprising all features (sic) including a lottery play

slip (11:64-68, 12:46-13:2, 13:26-35) and a selection section allowing alphabetical play phrase to

be coded (12:46-13:2 and 26-35) except a first section containing the alphabetical play phrase.

Koza relies upon conventional play slip format for reading input (11:64-68, 12:46-13:2, 26-35)

and as such does not further disclose details of a conventional lottery play slip, thus any

conventional play slip may be used. Alternatively, Goldman or Luciano each in view of Koza

discloses use of lottery play slip or at least permits other lottery schemes and techniques but

lacks detailing format of play slip to include a first section and a selection section. Casa

discloses a method of playing a lottery game teaching a conventional play slip having a selection

section to allow the string to be coded by player. Regarding the first section, it is notoriously

well known (by OFFICIAL NOTICE) in testing art to permit user input via hand written input in

conjunction with a selection section to be user coded of the written input where the hand written

input allows quick visual verification of hand written input to ensure intended player/user

response of player coded input while the coding allows machine reading. Thus, it would have

been obvious to an artisan at a time prior to the invention to add a first section containing the

play phrase, as notoriously well known and a selection section as conventional or as taught by

Casa to Goldman or Luciano each in view of Koza to utilize known play slip format thereby

saving development costs and for ease of play by players due to familiarity of game format and

to permit quick visual verification of coded input.

16.   Claims 34-37 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Koza (5112050) in view of Roberts (5772510) or, alternatively, over Koza in view of either

Goldman (4157829) or Luciano (6168521), as applied to claim 30 above, and further in view of

Roberts (5772510). Discussion above regarding breadth of claim language is incorporated

herein. As best understood, where alphabetic play phrase fails to preclude a player selected word

or, letter or alphanumeric sequence (supra), Koza discloses a word based lottery game

comprising claimed steps/features (supra) including the play phrase being same as the

alphabetical play phrase wherein if the character string matches a word in the alphabetic play

phrase, the user wins a prize associated with the word and a prize is associated with each word in

the phrase (12:36-68) but lacks a printer generating a lottery ticket (claim 34), having a section

listing the alphabetic play phrase and a covered section including the random character string

(claim 35), and the covered section can be removed to reveal the random character string (clm

37). Lottery tickets having a covered section including the random character string that can be

removed to reveal the character string and a printer generating such a lottery ticket by

OFFICIAL NOTICE are notoriously well known (i.e. conventional) such as used in pull tab or scratch off games. Koza further discloses lottery games that include elaborate systems to conceal preprinted combination of indicia so that the preprinted combination is revealed only after purchasing the ticket such as scratching off a masking layer (2:47-3:21, 13:26-30) as a general discussion of a conventional scratch off lottery ticket. Roberts (abstract, 1:58-3:4, 4:14, 22-46, figs. 1-8B, ref 19) discloses a lottery ticket and system having a printer (ref. 19) generating a lottery ticket (ref. 12) having a section listing player picks (3:42-5:2) and a covered section having the random character string (Figs 2A-2B, ref 29) for increasing security by completing printing lottery ticket only after sale. Therefore, it would have been obvious to an artisan at a time prior to the invention to add a printer generating a lottery ticket where the lottery ticket includes a section listing the alphabetic play phrase and a covered section including the random character string wherein the covered section can be removed to reveal the random character string as known in predetermined lottery games or as taught by Roberts to Koza or, alternatively, to Koza in view of either Goldman or Luciano to increase security by only completing the printing of the lottery ticket after purchase (3:1-4).

17.   Claim 34-37 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman (4157829) or Luciano (6168521) each in view of Koza as applied to claim 29 above, and further in view of Roberts (5772510). Discussion above regarding breadth of claim language is incorporated herein. As best understood, where alphabetic play phrase fails to preclude a player selected word or, letter or alphanumeric sequence (supra), Goldman or Luciano each in view of Koza discloses apparatus for lottery game comprising all features (sic) and the combination Goldman or Luciano each in view of Koza further includes a play phrase being

same as the alphabetical play phrase (12:59-60), a prize is associated with each word in the

phrase (7:25-8:11, 9:47-54, 12:35-13:2), wherein if the character string matches a word in the

alphabetic play phrase, the user wins a prize associated with the word and a prize is associated

with each word in the phrase (12:36-68), but lacks a ticket printer generating a lottery ticket (clm

34), a section listing the alphabetic play phrase, a covered section including the random character.

string (clm 35) and the covered section can be removed to reveal the random character string

(clm 37). Koza further discloses lottery games that include elaborate systems to conceal

preprinted combination of indicia so that the preprinted combination is revealed only after

purchasing the ticket such as scratching off a masking layer (2:47-3:21, 13:26-30) as a general

discussion of a conventional scratch off lottery ticket. However, Roberts discloses a lottery

ticket (abstract, 1:58-3:4, 4:14, 22-46, figs. 1-8B, ref 19) teaching a ticket printer (ref. 19)

generating a lottery ticket (ref. 12) having a section listing play data or indicia (3:42-5:2, ref 26a,

26b) and a covered section having the random character string (Figs 2A-2B, ref 24, 24b) for

increasing security by completing printing lottery ticket only after sale. Therefore, it would have

been obvious to an artisan at a time prior to the invention to add a printer generating a lottery

ticket where the lottery ticket also includes a section listing the alphabetic play phrase, a covered

section including the random character string and the covered section can be removed to reveal

the random character string as known in predetermined lottery games or as taught by Roberts to

Goldman or Luciano each in view of Koza to increase security by completing the printing of the

lottery ticket after purchase (3:1-4).

18.   Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in view of

Roberts (5772510) or, alternatively, over Koza in view of either Goldman (4157829) or Luciano

(6168521), and further in view of Roberts, each as applied to claim 35 above, and each further in

view of Guttin (6241246) or Baerlocher (5788573) or Walker (5921864). Koza in view of

Roberts or Koza in view of either Goldman or Luciano and further in view of Roberts discloses a

lottery game comprising claimed steps/features (supra) including a prize is associated with each

word at least since Koza teaches awarding a prize for matching selected word (3:10-20. 12:35-

68) except a plurality of words and a prize is associated with each word. Guttin discloses a

lottery ticket having a plurality of words (ref 4, 6, 8) where a prize is associated with each word

(ref. 8). Alternatively, a phrase game having a plurality of words in a game of chance are known

such as taught by either by Baerlocher (1:21-27, 4:4) or Walker (abstract, 4:18-19, 23-35).

Therefore, it would have been obvious to an artisan at a time prior to the invention to add a

plurality of words and a prize is associated with each word as taught by Guttin or Baerlocher or

Walker to Koza in view of Roberts or, to Koza in view of Goldman and Luciano further in view

of Roberts to increase complexity of game and to award prize based in part on number of

matched words.

19.   Claims 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza in

view of either or Baerlocher (5788573) or Walker (5921864). Discussion above regarding

breadth of claim language is incorporated herein. As best understood, where alphabetic play

phrase fails to preclude a player selected word or, letter or alphanumeric sequence (supra), Koza

discloses a method for playing word based lottery game comprising claimed steps (sic) that

includes receiving an alphabetical play phrase from a user as either word or letter or

alphanumeric sequence (3:10-20, 6:21-29, 11:28-40, 64-67, 12:35-68), where receiving is either

via play slip or receiving digits keyed manually by user or selection from a menu of phrases, aka

word or alphanumeric sequence, (11:36-38, 12:36-13:2, ref 72), receiving a wager via coin slot (11:40), generating a random character string (3:10-20, 5:26-28, 31-32, 49-54, 6:29-32, 44-48, 7:26-34, 8:24-25, 12:36-13:2), determining a correlation among the alphabetical play phrase (3:10-20, 6:32-43, 12:35-68), the random character string and the wager (supra), determining a payout value based upon, at least, the correlation (3:10-20, 6:37-39, 7:36-41, 8:9-11, 12:35-68). However, Koza lacks a plurality of words. A phrase having a plurality of words in a game of chance as taught/demonstrated in Wheel of Fortune phrase game as discussed by Baerlocher (1:21-27, 4:4) or Walker (abstract, 4:18-19, 23-35). Thus, it would have been obvious to an artisan at a time prior to the invention to add alphabetic play phrase comprised of a plurality of words as suggested by Baerlocher or Walker to Koza so as to increase interest from players for particular topic or theme. Essentially, in this case, the particular indicia selected by player or generated as winning combination fails to patentably distinguish over Koza at least since games of chance that include a phrase having a plurality of words are known such as phrase game taught by either Baerlocher or Walker suggest a phrase comprising a plurality of words so as to increase the complexity of game and increase size of jackpot prize due to decreased probability of winning.

20.   Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koza (5112050) in view of either Baerlocher or Walker as applied to claim 42 above, and further in view of Roberts (5772510). Koza in view of either Baerlocher or Walker discloses a method comprising claimed steps (supra) including associating a prize with each word and wherein if the character string matches a word in the alphabetic play phrase, the user wins a prize associated with the word and a prize is associated with each word in the phrase (3:10-20, 12:36-68) except printing a

word based lottery ticket comprising a section listing the alphabetic play phrase and a covered section including the random character string. Koza further discloses lottery games that include elaborate systems to conceal preprinted combination of indicia so that the preprinted combination is revealed only after purchasing the ticket such as scratching off a masking layer (2:47-3:21, 13:26-30) as a general discussion of a conventional scratch off lottery ticket. However. Roberts discloses a lottery ticket (abstract, 1:58-3:4, 4:14, 22-46, figs. 1-8B, ref 19) teaching a ticket printer (ref. 19) generating a lottery ticket (ref. 12) having a section listing play data or indicia (3:42-5:2, ref 26a, 26b) and a covered section having the random character string (Figs 2A-2B, ref 24, 24b) for increasing security by completing printing lottery ticket only after sale. Therefore. it would have been obvious to an artisan at a time prior to the invention to add a printing a lottery ticket where the lottery ticket also includes a section listing the alphabetic play phrase, a covered section including the random character string as known in predetermined lottery games or as taught by Roberts to Koza in view of either Baerlocher or Walker to increase security by completing the printing of the lottery ticket after purchase (3:1-4).

21.   Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza (5112050) in view of either Baerlocher or Walker and further in view of Roberts (5772510) as applied to claim 46 above, and further in view of Guttin (6241246). Koza in view of Baerlocher or Walker and further in view of Roberts discloses a method for playing a lottery game comprising claimed steps (sic) including associating a prize with each word, determining a match between the random character string and play phrase wherein if the character string matches a word in the alphabetic play phrase, the user wins a prize associated with the word and awarding a prize based on the match to the user (3:10-20, 12:36-68). Alternatively, Guttin discloses an

apparatus for playing a word based lottery game or method teaching associating a prize with each word, determining a match between the random character string and the plurality of words, and awarding a prize to the user (ref. 4, 6, 8) such that based on number of matched words a predetermined prize value is awarded. Therefore, it would have been obvious to an artisan at a time prior to the invention to add associating a prize with each word, determining a match between the random character string and play phrase wherein if the character string matches a word in the alphabetic play phrase, the user wins a prize associated with the word and awarding a prize based on the match to the user as taught by Guttin to Koza in view of either Baerlocher or Walker and further in view of Roberts so as to award a prize in part on matched words. The claimed invention fails to preclude Guttin awards a prize value based on matching words that is akin to conventional lottery awarding a prize value based on matching number sequence.

Allowable Subject Matter

22.　　Claim 39 and 48 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

23.　　Applicant's arguments with respect to claims 29-53 have been considered but are moot in view of the new ground(s) of rejection.

24.　　Applicant's arguments filed Oct 30, 2006 have been fully considered but they are not persuasive. Regarding Applicants assertion that Koza does not disclose a system receiving a player phrase from the user, the office reiterates breadth of claimed invention including 'alphabetic play phrase' fails to preclude Koza (3:10-20, 6:9-29, 11:36-38, 11:60-68, 12:46-63.

ref 72) disclosed game input device for receiving a random alphabetic play phrase from a user as indicia randomly picked by use via keyboard or playslip or a menu listing since as discussed above regarding claim interpretation incorporated herein, alphabetic play phrase includes any text or coherent text including alphabetic/letter or alphanumeric sequence or a word (where the word may or may not be a phrase) and claimed invention (at least regarding claims 29-37) does not require a plurality of words. It is further reiterated that a word can be a phrase or sentence and thus the selection of a word taught by Koza includes a selection of a word that may be a phrase or sentence. Regarding Applicants assertion that Koza lacks a controller capable of generating a random character string, the examiner disagrees since it is believed that Koza infers (or is inherent, where either Goldman or Luciano are provided as evidence thereto) use of controller to automate the repetitive hourly drawings. However, alternatively. it is deemed obvious to include a controller as taught by Goldman or Luciano to preclude labor cost (sic).

Regarding Applicant remark that Koza lacks manual input by user; however, Applicant acknowledges Koza teaches selection from a menu and player use of keyboard or playslip for input of indicia (remark page 22 with respect to claim 32 and 42), the examiner is confused and the argument is not well taken at least due to Applicants' acknowledgement of claimed structure performing same function for same purpose, albeit Applicant appears to believe 'phrase' is more limiting than is warranted. Discussion above regarding scope of alphabetic play phrase is incorporated herein. Further, Applicant has not provided any rebuttal regarding claim interpretation or that a word can be a phrase. Also, Koza teaches claimed structure of a game input device for receiving a random alphabetic play phrase from a user via keyboard, playslip or menu selection (sic).
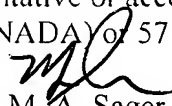
Regarding Applicants statement that a word is not a phrase, the examiner notes that

Applicant fails to consider that a word may also be a phrase or a sentence as stated in prior action

and maintained herein. Further, breadth of claim language stated above in claim interpretation is

incorporated herein.

Conclusion

25.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The
examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the
organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR
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like assistance from a USPTO Customer Service Representative or access to the automated
information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

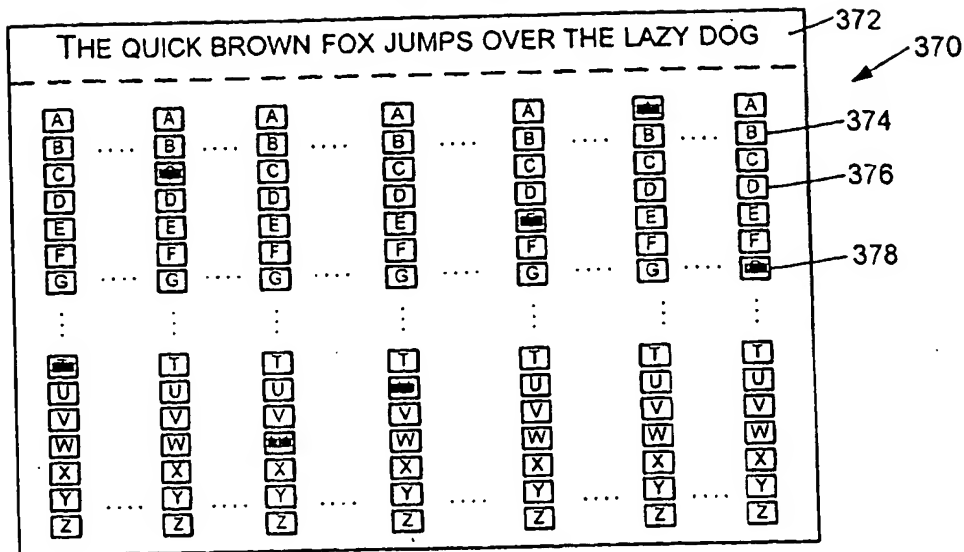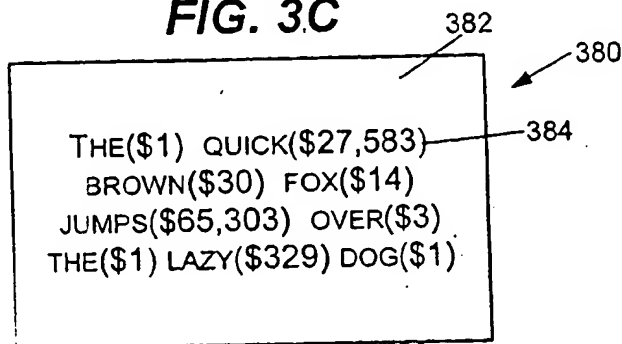M. A. Sager
Primary Examiner
Art Unit 3712

mas

FIG. 3B

THE QUICK BROWN FOX JUMPS OVER THE LAZY DOG — 372 — 370

— 374
— 376
— 378

FIG. 3C

382 — 380

THE($1) QUICK($27,583) — 384
BROWN($30) FOX($14)
JUMPS($65,303) OVER($3)
THE($1) LAZY($329) DOG($1)

FIG. 3D

382 — 380

THE($1) QUICK($27,583) — 384
BROWN($30) FOX($14)
JUMPS($65,303) OVER($3)
THE($1) LAZY($329) DOG($1)

A D E I L M T — 386

E I N O R S T — 388

(New Sheet)